

LOWER PAXTON TOWNSHIP ZONING HEARING BOARD

Meeting of August 27, 2015

Members Present

David Dowling
Jeff Staub
Sara Jane Cate
Watson Fisher

Also in Attendance

James Turner
Amanda Zerbe

Docket 1373

Applicant: Earl Broggin
Address: 4503 Locust Lane, Unit B
Harrisburg, Pennsylvania 17109
Property: 4503 Locust Lane, Unit B
Harrisburg, Pennsylvania 17109

Section 306.B.2

The applicant is requesting to have a tattoo establishment in the Commercial Neighborhood district which is not a permitted use in the CN District

Grounds: Section 306.B2
Fees Paid: June 25, 2015
Property Posted: August 12, 2015
Advertisement: Appeared in The Paxton Herald on August 12, 2015 and August 18, 2015.

The hearing began at 7:04 p.m.

Mr. Dowling swore in Earl Broggin, the applicant for the Zoning Hearing Board docket.

Mr. Dowling swore in Amanda Zerbe, Zoning and Planning Officer for Lower Paxton Township.

Mr. Dowling questioned in respect to Docket 1373, has it been properly advertised and posted. Ms. Zerbe answered that the applicant paid the fee on June 25, 2015 and it was posted on August 12, 2015 and advertised in The Paxton Herald on August 12, 2015 and August 18, 2015.

Mr. Dowling requested Ms. Zerbe to provide a listing of the Township Ordinances that are at issue with this application.

Ms. Zerbe answered Section 306.B.2, for permitted uses. The applicant is requesting to have a tattoo establishment in the Commercial Neighborhood district which is not a permitted use in the CN District.

Mr. Dowling questioned in what zone is it permitted. Ms. Zerbe answered in the Commercial General District.

Mr. Dowling requested Mr. Broggin to provide his testimony to the Board.

Mr. Earl Broggin explained that he was before the Board about two years ago to request a variance for another location that was grant by this Board, noting that it was residential at that time. He explained that he wanted to ensure that everything was done correctly. He noted that he now wants to relocate his business since the new location is safer. He explained that he had two break-ins at his former location and he wants to make sure everything is correct.

Mr. Broggin explained that he received a letter that his new location informing him that it was not zoned for tattoo establishments.

Mr. Dowling questioned Mr. Broggin where his business is currently located. Mr. Broggin answered that it is beside the barber shop and pizza place on Locust Lane, across from the cemetery. Mr. Dowling questioned if it is by Central Dauphin High School. Mr. Broggin explained that it is now the Central Dauphin Middle School.

Mr. Dowling noted that there is a pizza shop there and you are right beside it. Mr. Broggin answered yes.

Mr. Dowling questioned how that location is zoned. Mr. Broggin answered Commercial Neighborhood. Ms. Zerbe noted that it is in a strip mall and the mall is zoned Commercial Neighborhood.

Mr. Turner questioned if that is Mr. Broggin's proposed new location. Mr. Broggin answered yes. He noted that Mr. Dowling asked where the business is now. Ms. Zerbe answered that he is operating there now.

Mr. Staub questioned where were you were located prior to this move. He questioned if the Board granted him a variance on Crosby Street. Mr. Broggin answered yes. He noted that he was driving two hours a day to work in New Jersey and he and his wife were butting heads about that so that is when he came to get the approval to work in the Township.

Mr. Staub questioned if the issue at Crosby Street is break-ins. Mr. Broggin answered that he had two break-ins, the one the guy got away but the second guy they caught him with \$4,000 worth of merchandise and he got five years. He noted that he was losing sleep over having to check the cameras so he spoke to Tim McCartney to see if he could have that location

and he said yeah. He noted that the Township office was close by and he thought it would be a safer location.

Mr. Dowling questioned how long have you been operating at the Locust Lane address. Mr. Broggin answered since March.

Mr. Dowling questioned Ms. Zerbe, at some point you found out about it or he came to you, how did that happened. Ms. Zerbe answered that she received a complaint. Mr. Dowling questioned if the complainant told her that what he was doing was not permitted in the district. Ms. Zerbe explained that the complaint was concerning a tattoo business operating across from the Middle School.

Mr. Staub questioned what is in the building now, CD Pizza. Ms. Zerbe answered that it is CD Pizza, the tattoo parlor and a barbershop. Mr. Staub questioned if the laundromat is not there anymore, it's been a long time ago. Ms. Zerbe answered that it has been a long time ago.

Mr. Dowling questioned if there is any age restriction under which you can't get a tattoo. Mr. Broggin answered, technically there is but in this state they don't have an age limit but he goes off of what the other states that he use to work in regulate. He noted for Virginia, New Jersey and New York it is 16 years of age. He noted between the ages of 16 and 18 you need parental consent. He noted that you have to be over the age of 16 to enter his facility.

Mr. Dowling questioned if the kids at the middle school would be under 16. Ms. Zerbe answered that is correct.

Mr. Broggin noted that there is a tattoo shop across from the high school as well, at Central Dauphin High School on Linglestown Road. He noted that it was odd that his was the one receiving the complaint.

Mr. Dowling questioned if that is correct as far as you know. Ms. Zerbe noted that depending on what side of Linglestown Road, it may not be in our Township. She noted if it is on the east side it would be West Hanover Township. She noted that she does not know what their zoning is.

Mr. Dowling questioned where the tattoo shop across from Central Dauphin High School is. Mr. Broggin answered that it is directly across from the school and that he has a Google Map and a picture of it. Mr. Dowling questioned if it is on the other side of Linglestown Road. Mr. Broggin answered across from the school, yes. Mr. Dowling requested Mr. Broggin to show the Board where it is located on the Google map. Mr. Dowling noted that Mr. Broggin's is showing the Board on the map where the tattoo shop is located on Linglestown Road. Mr. Staub questioned if it is Walnut Avenue. Mr. Watson pointed to where the school is located on the map. Mr. Staub questioned if the fire company house is near it. Mr. Broggin's' answered not that he was aware, he suggested that it is in a plaza with some other stuff.

Mr. Staub questioned if the pond was on the school property. Mr. Broggin's answered, I guess. Mr. Dowling noted if this is Piketown Road then the school is in that corner. He noted that

what Ms. Zerbe was saying is if it is located on the upper side of Linglestown Road it is located in West Hanover Township. Ms. Zerbe answered that was correct. Mr. Dowling noted that we don't know how that is zoned in that location.

Mr. Dowling noted that the second Google map shows where Mr. Broggin's business is currently located. Mr. Broggin's noted that he wanted to show the difference between his business and the school and the other tattoo shop and the high school. Mr. Dowling thanked Mr. Broggin for providing the information.

Mr. Turner questioned for the clients between 16 and 18 years of age, you said you required parental consent in those situations. Mr. Broggin answered that they both must have some form of ID, he noted for someone around 16, he would require a birth certificate and a school ID so that the last names match. Mr. Turner questioned if the parent needs to physically come into the shop... Mr. Broggin's said they would have to fill out a form.

Ms. Cate questioned why you thought you could move there. Mr. Broggin answered that the thought it was commercially zoned, noting that his other place was residential, so he was under the assumption that he could move in.

Mr. Dowling noted that it is commercial, but it is zoned Commercial Neighborhood and in that zone this type of business is not permitted. Mr. Broggin noted that is why he came to get it permitted and get it corrected.

Mr. Dowling questioned Ms. Zerbe if the Township has received any other complaints other than the one she mentioned. Ms. Zerbe answered no.

Ms. Cate questioned if the complaint was from someone who had a home nearby. Ms. Zerbe answered no, it was from a parent of a student attending the middle school.

Mr. Dowling questioned if the entire side of that street is commercial neighborhood up to the gas station. Ms. Zerbe answered that it starts the commercial neighborhood at Pearl Street to Dartmouth Street. She noted that they sent notices to 26 neighbors. Mr. Dowling noted that we will find out if anyone is present to object to the variance.

Mr. Dowling questioned if the Township has any opinion. Ms. Zerbe answered no as she understood that Mr. Broggin thought that it was commercial and the person renting to him didn't check to find out either so that is why he is here. She noted that it is a non-permitted use.

Mr. Turner questioned, when a tenant changes business like that in a rental property is someone supposed to come into the Township and get a zoning permit. Ms. Zerbe answered that we started to require a permit for a change of use. Mr. Turner questioned if the Township notified landlords of that requirement. Ms. Zerbe answered no. Mr. Turner suggested that it may be a good idea to do that and send a mailer to anyone who has commercial units so people are aware of that. He noted that he has seen this happen a lot of times where they go and rent to someone and that tenant finds out they have a problem because the landlord didn't know what he could do with the commercial zoning.

Ms. Cate questioned how long it takes to do a tattoo. Mr. Broggin answered that it is between thirty minutes to three or four hours depending on what the person wants. He noted that he tried to keep it to two persons a day, and all his work is appointment only.

Mr. Staub questioned if it is similar to the business you had on Crosby Street. Mr. Broggin answered yes. Mr. Staub questioned if it is the same hours and same number of clients. Mr. Broggin answered yes, he was just relocating for safety.

Ms. Cate questioned what Mr. Broggin's hours are. Mr. Broggin answered that they are between 12 noon to 9 p.m.

Mr. Dowling questioned if Mr. Broggin's had to be licensed to do this work. Mr. Broggin answered in this state no, but he is licensed in New York. He noted that he has CPR certification, blood borne pathogens, and first aid. He noted that Pennsylvania does not require anything.

Ms. Cate questioned how many people do you normally see a day. Mr. Broggin answered between two and three at most. He noted that sometimes if no one shows up he is just there drawing for the next appointment.

Mr. Turner noted that you have to have a license in this state to cut hair but anyone can put out a shingle saying I am going to do tattoos; he noted that it doesn't seem quite right.

Mr. Dowling questioned how long Mr. Broggin has been in the business. Mr. Broggin answered seven years. Mr. Dowling questioned how long Mr. Broggin has been in business in Pennsylvania. Mr. Broggin answered he is going on his third year. He noted that he is doing everything by the books and he has his tax records and everything.

Mr. Dowling questioned if anyone in the audience wished to be heard on this application.

Ms. Joellen Hoffman explained that she owns the Harrisburg Academy of Dance.

Mr. Dowling swore in Ms. Hoffman. She noted that her address is 4409 Locust Lane.

Mr. Turner questioned where that is in relation to this property. Ms. Hoffman noted that some of her fears have been relieved since she had no idea that he was located by the pizza place. She noted that the car dealer is next to the pizza place, and then a house and her studio. She noted that it is a pink building.

Mr. Dowling questioned if that guy was still selling cars out of that place. Ms. Hoffman stated that she thinks that he left. She noted when she bought the building 20 years ago, it was C-1 zoning. She questioned when did it change to CN and how come she was never notified. Mr. Staub suggested that it happened in 2006. She questioned why she did not receive any notices. She questioned how that could happen without the owners knowing it. She noted in a way she is glad because than anything can't go in there. She noted initially it was a C-1 zoning where anything could have gone in. She noted that she was concerned with having young children

coming to the dance studio, parents want to feel that their kids are secure and the type of clientele that sometimes tattoo parlors will attract was her concern. She noted the fact that it has been running three years and she did not know, she feels better about that and she also noted that he is further away from the studio. Mr. Broggin answered yes.

Ms. Hoffman noted that her concern is her property values. She noted that it is pretty well accepted that a tattoo parlor will lower property values. She noted that he is pretty discrete. She questioned how many clients does Mr. Broggin have at one time and where will they park. Mr. Broggin answered that the parking lot is pretty open, it is just him and the one person. Ms. Hoffman noted where you are now, but it is a house that you are looking at, correct. Mr. Broggin answered no, he is in the strip mall. He noted that he was in a building on Crosby Street in a residential area and he is now on Locust Lane across from the school in the strip mall. Ms. Hoffman noted that is where you are trying to get a variance for. Ms. Hoffman noted that the letter that she got said you wanted to move to 4305 and when she looked at it she found that it was a house on the other side of Pearl Street. Mr. Turner noted that it is 4503 Locust Lane. Ms. Hoffman noted that it is the strip mall. Mr. Staub noted at the CD Pizza.

Ms. Hoffman noted that she is concerned with the clientele, the safety of her students and she can understand the parents; how many people, so if you have a whole bunch of people, if it was one or two you can control that. She noted that she is concerned about the type of people, noting that it is widely accepted, pretty much she knows, that some times it attracts a certain clientele, tattoo people looking for tattoos that is not, does not fit in with the group of children, dance and school and things like that. She noted that is her take.

Mr. Dowling requested Mr. Broggin to address those concerns if you would like to, if it in fact is accurate. He questioned if the type of clientele going to a tattoo place different today than it was ten years ago. Mr. Broggin noted that it has changed completely. He noted that ten years ago it was more rebellious, rebel, children who are just being rebellious against parents and in that case you had gangs that were doing more of the marking. He noted now, it is more acceptable where he has actually tattooed preachers, doctors, teachers, doing everything now. He noted that it is way different now from the way it was back then. Mr. Dowling noted that what you are saying is the demographics have changed. Mr. Broggin answered yes.

Mr. Dowling noted that parking is not an issue as you have the whole mall to use. Mr. Broggin answered yes.

Ms. Hoffman noted that after a tattoo parlor she worries what will be next, a check cashing place. She noted that it drives down property values and the neighborhood. She noted if it is in and she still has concerns about that, that a tattoo parlor is right, now you are actually closer, I thought you were going to the house down the street.

Mr. Broggin noted if that would be an issue, tattoos are not permitted to be done at a house, it needs to be in a well-sanitary environment. Ms. Hoffman noted that she does not want to deny Mr. Broggin the right to pursue his business, but she does want to protect hers as well and the clients that come to her place.

Mr. Turner questioned how long have you been operating at the new location. Mr. Broggin answered since March.

Ms. Hoffman questioned if Mr. Broggin had a sign. Mr. Broggin answered no. He had a grand opening sign but he took it down as he doesn't need it anymore. He noted that it was just to let people know that he relocated. Ms. Hoffman questioned Mr. Broggin if he intended to put up a sign. She noted that a big tattoo sign would definitely change the overall neighborhood and she is worried that parents would be concerned as they would not want to drop their child off there.

Mr. Broggin noted that he can take the word tattoo off the window and just stick to the name, Imagine Art. Ms. Hoffman noted that is probably, how many do you do at once. How many clients. Mr. Broggin answered only one. Ms. Hoffman noted that there won't be a lot of people gathering then. Mr. Broggin explained that he does not like that himself. He noted that he would rather it be only one person or someone to hold their hand, that is it.

Mr. Dowling swore in Tim J. McCartney, 5 C Gloucester Street, who stated that he has the barbershop next to the tattoo shop. He noted that there was another tattoo shop in there before Mr. Broggin for a about a year and a half, some crazy guys, like three of them. He noted when Mr. Broggin came in he was really relieved because it was just him, he takes appointments and the other guys had people in and out all day and all night. He noted that no one ever complained.

Mr. Turner questioned how long that business was there. Mr. McCartney answered that it was about a year and a half. Mr. Dowling questioned if Mr. McCartney recalled the name of the business. Mr. McCartney answered that it was the Ego Ink. Mr. Dowling noted that the Township must not have been aware of it or gotten any complaints.

Mr. McCartney noted that Mr. Broggin has one person in and one person out. He noted that the other ones had people hanging there until midnight, all the time, and he kept going over to check on his business. He noted that he can't figure out why someone would complain about Mr. Broggin and never complain about the other ones.

Mr. Dowling questioned how long ago Ms. Zerbe got the complaint. Ms. Zerbe answered in May.

Mr. Dowling questioned if there was any gap between the three guys moving out and Mr. Broggin moving in. Mr. McCartney answered about a month. Mr. Dowling questioned where that business moved to. Mr. McCartney answered somewhere on Derry Street.

Mr. Staub noted that it partially explains why the landlord didn't have any issues with the new tenant. He noted, in his eyes, there were no issues with the old tenant. Mr. McCartney noted that it was weird when they put a sign in front of the barbershop and the other guys were there until midnight smoking weed and doing all that stuff. He noted that he would come over and throw them out all the time, and this guy moves in and he is all peaceful and someone complains. It makes no sense.

Mr. Dowling noted that it is conceivable that the complaint was about the former business. Mr. McCartney noted that he complained a lot but he never called the Township.

Mr. Dowling questioned Mr. McCartney if he had anything else to say. Mr. McCartney answered no.

Ms. Hoffman noted that she appreciates that he is taking down the tattoo wordage and she feels better after hearing about this and for what he is describing, what I feared, and if this man is already established his business and is not doing that and not willing to advertise with a big sign tattoo she stated that she would not be concerned.

Mr. Dowling questioned what Mr. Broggin discussed with Ms. Hoffman. Mr. Broggin noted that he had a flag sign out near the street so people would know that he was there. He stated that he feels he doesn't need it anymore. He noted that it was a relocation sign to let his clients know where he was now. Mr. Dowling questioned if his business has a sign of some kind. He noted that he took that sign down, it just had the window decals. Mr. Dowling questioned what does that say. Mr. Broggin answered Hidden Arts and the word tattoo on part of the window. He noted that he could scrape that off and just leave it Hidden Arts. He noted that his last location was secluded and that is how he came up with the name.

Mr. Staub questioned if there were any complaints against the tattoo parlor on Crosby Street. Ms. Zerbe answered no, as she would have handled the complaints.

Ms. Hoffman questioned, if there would be a problem, it appears that there may not be with this business, what recourse she would have. Mr. Dowling answered that it depends on what the problem was. Mr. Turner noted if it is people hanging out in the parking lot smoking joints, call the police.

Mr. Dowling questioned if any member of the Board wished to take any action.

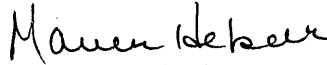
Mr. Dowling made a motion to approve Docket 1373 as submitted with the condition that the signage identifies the name of the business only, having to comply with the sign ordinance, but that you don't use the word tattoo. He suggested that Mr. Broggin check with the Township to see what signage is permitted. Mr. Fisher seconded the motion.

Mr. Staub questioned if there is a docket number for this application. Ms. Zerbe answered that it is 1373.

Mr. Dowling requested Mr. Turner to conduct a roll call vote: Mr. Fisher, aye; Mr. Staub, aye; Mrs. Cate, aye; and Mr. Dowling, aye. Mr. Dowling noted that the application was approved.

The hearing ended at 7:37 p.m.

Respectfully submitted,


Maureen Heberle
Recording Secretary